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JUN 17 2005

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WESTERN DISTRICT OF LOUISIANA

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

CALVIN WALKER

DOCKET NO. 1:05 CV 0905

SECTION P

VS.

JUDGE DEE D. DRELL

KATHY RICHARDSON, ET AL.

MAGISTRATE JAMES D. KIRK

MEMORANDUM ORDER

Before the Court is a civil action filed pursuant to 42 U.S.C. § 1983, by *pro se* plaintiff, **CALVIN WALKER** (Plaintiff). He is currently incarcerated at the Winn Correctional Center ("WCC") in Winnfield, Louisiana. He was granted permission to proceed *in forma pauperis* on June 06, 2005. [Rec. Doc. 3].

Plaintiff is not entitled to proceed *in forma pauperis* in this action. Since his incarceration, he has filed numerous civil actions in the United States Federal Courts. Three (3) or more of these suits have been dismissed as frivolous in accordance with 28 U.S.C §1915(e).<sup>1</sup> 28 U.S.C. § 1915(g), also known as the three-strikes provision, precludes a prisoner from bringing a civil action *in forma pauperis* if on three or more prior occasions, while incarcerated or detained in any prison facility, the prisoner filed civil actions or appeals in federal court which were dismissed,

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<sup>1</sup> See Rec. 1:03 cv 00044 (W.D.La.), Doc. 17 Order from the USCA Fifth Circuit that Plaintiff is barred from proceeding *in forma pauperis* in any civil action or appeal while incarcerated; see also 1:00 cv 00475 (W.D.La.) Doc. 18.

either by a district court or appellate court, for being either frivolous, malicious, or for failing to state a claim. A prisoner who has sustained three dismissals qualifying under the three strikes provision may still pursue any claim, but he must do so without the aid of the *in forma pauperis* procedures. Adepegba v. Hammons, 103 F.3d 383, 387-88 (5th Cir.1996). The only exception, not applicable here, is for cases where the prisoner is "under imminent danger of serious physical injury." 28 U.S.C. §1915(g).

Because Plaintiff has now on three or more prior occasions had suits dismissed pursuant to 28 U.S.C §1915(e), and his claims do not fit within the exception, he is now barred from proceed in *forma pauperis* in this case, and must pay the full filing fee to proceed herein. **Accordingly,**

**IT IS ORDERED** that the order granting him *in forma pauperis* [Rec. Doc. 5] is **VACATED**. If Plaintiff wants to proceed with this case he must pay the full \$250.00 filing fee within twenty (20) days from the date of this order. Failure to pay the filing fee will result in the pleadings being **STRICKEN** from the record and this case closed.

**THIS DONE AND SIGNED**, in chambers, at Alexandria, Louisiana, on this the 17<sup>th</sup> day of June 2005.

  
  
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**JAMES D. KIRK**  
**UNITED STATES MAGISTRATE JUDGE**